

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Auction of Toll Free Numbers in the 833 Code)	AU Docket No. 19-101
)	
Toll Free Assignment Modernization)	WC Docket No. 17-192
)	
Toll Free Service Access Codes)	CC Docket No. 95-155

COMMENTS OF VERIZON

The Commission is right to experiment with market-based solutions, and Verizon generally supports the agency’s targeted approach to conducting the auction, as explained in the *Public Notice*.¹ But while the *Report and Order* hinted at a monitoring regime focused on toll free numbering administrator Somos, “direct[ing] Somos to maintain data on secondary market transactions,”² the *Public Notice* would impose information-gathering burdens on RespOrgs that go well beyond their current capabilities. The Commission should instead impose a more narrow and well-defined approach to gathering this information from RespOrgs.

I. THE PROPOSED SECONDARY MARKET MONITORING AND REPORTING REQUIREMENTS RAISE SEVERAL IMPLEMENTATION CHALLENGES.

The *Report and Order* requires that RespOrgs provide Somos “the new subscriber’s name and contact information, and other limited information *Somos deems necessary*.”³ But rather

¹ See *Auction of Toll Free Numbers in the 833 Code, Comment Sought on Competitive Bidding Procedures*, Public Notice, AU Docket No. 19-101, WC Docket No. 17-192, and CC Docket No. 95-155, FCC 19-41 (May 10, 2019) (“*Public Notice*”).

² *Toll Free Assignment Modernization, Toll Free Service Access Codes*, Report and Order, 33 FCC Rcd 9274, ¶ 85 (2018) (“*Report and Order*”).

³ *Id.* ¶ 85 (emphasis added).

than have Somos coordinate with RespOrgs to undertake this task collaboratively, the *Public Notice* would require that RespOrgs provide transaction-specific information on the parties and the sale price terms of a transaction.⁴ This proposal would expand the required information beyond the basic subscriber identification information described in the *Report and Order* and raises a number of practical implementation questions.

More than a single transaction could occur within a 60-day billing period and, as worded, the *Public Notice* would require a RespOrg to monitor and report all of them. That would be so even if the underlying transaction is *pro forma* in nature (e.g., a change in subscribership from one corporate subsidiary to another). RespOrgs do not typically collect or maintain this information in their billing and account records. To do so, at a minimum RespOrgs would need: a reliable method for determining whether a number was auctioned and thus is exempt from the brokering, hoarding, and warehousing rules; to enable that number to be transferred immediately to a new subscriber rather than back to the pool; and new data fields to maintain the supplementary transaction-specific information to report to Somos.

The *Public Notice* also proposes that “noncompliance be penalized by discontinuing access to the Toll Free Database until the required data is reported.”⁵ The Somos tariff, however, authorizes Somos to take such strong measures for matters integral to Somos’s business operations, not to information gathering functions such as this.⁶ And RespOrgs would be largely dependent on subscribers to provide timely and accurate information; those subscribers may view the information as competitively sensitive and thus could be reluctant to provide it.⁷ As

⁴ *Public Notice* ¶ 58.

⁵ *Id.*

⁶ *See id.* n.79 (citing Somos Toll Free Tariff).

⁷ *See infra* at 4-5.

covered transactions also involve a change in the serving RespOrg, the Commission should ensure that the new requirements not adversely affect the Commission’s long-standing policy of promoting toll free number portability.

Finally, the *Public Notice* leaves some basic definitional problems unresolved. First, the *Public Notice* does not define who the “parties” are to a transaction. A secondary market transaction might involve a change in the identity of the subscriber or a broader corporate ownership change. There are many secondary market transactions resulting in no detectable change in the “subscriber” *per se*, such as a change of corporate control rather than transfer of assets. And determining the “sale price” in those circumstances would be difficult. For example, when the transaction results from a change in controlling ownership, or the transfer of the number is only part of a broader transfer of assets, the value of the toll free number may be an indiscernible subset of a larger “sale price.” And a RespOrg will not necessarily have visibility into a subscriber’s broader corporate ownership structure, including sister companies that may have their own toll free numbers. Capturing those transactions would require that the monitoring regime become yet even more complex. For these reasons, the Commission should not include these information points in any new monitoring and reporting requirements.

II. THE COMMISSION SHOULD CONSIDER MORE TARGETED REPORTING REQUIREMENTS ON RESPORGS.

The Commission should instead consider potential alternatives, such as exercising its existing authority to investigate the use of number resources,⁸ applied on a more targeted basis. For example, the Commission could make inquiries of particular RespOrgs or their subscribers based on identification information in Somos’s records, or in response to allegations expressing

⁸ See 47 C.F.R. §§ 1.17, 52.15(k).

concern for a subscriber's use of a covered 833 number. Those types of requirements would be more consistent with the Paperwork Reduction Act.⁹ That is particularly so given the unclear "practical utility" and actual usefulness of the party and sale price information that would be provided under the proposed rules; in fact, those proposed requirements would seem to leave significant types of transactions undetected.¹⁰

The Commission should also ensure that the new monitoring responsibilities on RespOrgs not impose "disproportionate costs" onto RespOrgs.¹¹ RespOrgs will need to be able to flag auctioned 833 numbers in their IT systems, maintain and report the transaction-specific information the Commission requests--regardless of whether they ever obtain a customer with an auctioned 833 number or whether a vibrant secondary market develops at all. And those IT system changes must timely deliver that information to Somos. Implementing these requirements would require changes to both legacy and newer IT systems for both direct subscriber support and for wholesale services. These costs, which would be incurred regardless of whether the RespOrg participated in the auction on its own or a subscriber's behalf, could be in the hundreds of thousands of dollars for Verizon, and would be in addition to the costs of new business practices and controls.

The Commission also must provide adequate protection for "proprietary, trade secret, or other confidential information."¹² The sale price for a toll free number or the underlying transaction is proprietary and, for privately held companies at least, the sale date and possibly the

⁹ See 5 C.F.R. § 1320.5(d)(1)(i) (information collection must be "the least burdensome [step] necessary for the proper performance of the [Commission's] functions ...").

¹⁰ See *id.* §§ 1320.3(l), 1320.5(d)(1)(iii).

¹¹ See *id.* § 1320.8(d)(1)

¹² See *id.* § 1320.5(d)(2).

subscriber's individual point of contact information could be proprietary as well. As proposed, a subscriber would provide this detail not only to the serving RespOrg, but indirectly to Somos and the Commission.

Finally, these considerations warrant that the Commission base any implementation deadlines on the underlying IT system updates necessary to meet any new requirements, rather than a target date for commencement of the auction. So, for example, if implementation of new requirements will take 12-18 months, the Commission should base compliance deadlines on that figure, irrespective of when the auction is held.

CONCLUSION

For the foregoing reasons, the Commission should adopt more narrowly targeted secondary market monitoring and reporting requirements for RespOrgs to ensure consistency with the scope of the *Report and Order*.

Respectfully submitted,

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